SCOTT M. BARBARA, WSBA# 20885
JOHNSON CHRISTIE ANDREWS & SKINNER, P.S.
200 West Thomas, Suite 500
Seattle, WA 98119
(206) 223-9248
(206) 623-9050 fax

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
SEP 10 2003
JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

GENE CAMARATA, Plaintiff, v. CITY OF ELLENSBURG, SCOTT WILLIS, NELSON NG, ANNE KIRKPATRICK, KITTITAS COUNTY, GENE DANA, TRACY WILSON, AARON LANGVIN, JEFF BEATON, JOHN KRAHENBUHL, ERIC NYLANDER, JEFF ST. JOHN, BETH SMITH, Defendants.	CY-03-3115-LRS NO. NOTICE OF REMOVAL

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PHONE: 206-223-9248/ FAX: 206-623-9050

ORIGINAL

TO: The United States District Court for the Eastern District of Washington at Spokane

Defendants CITY OF ELLENSBURG, SCOTT WILLIS, NELSON NG and ANNE KIRKPATRICK, by and through counsel, hereby give notice that they are removing this case to the United States District Court for the Eastern District of Washington on the grounds set forth below:

1. On August 11, 2003 plaintiff served a Summons and Complaint on the Office of the City Clerk, the City of Ellensburg's designated agent for service of process. The Superior Court of Washington for Kittitas County is referenced on the Summons and Complaint; however, the copies served upon the City do not reflect a cause number. On or about August 27, 2003 counsel undersigned mailed correspondence to the plaintiff with a Notice of Appearance and a request that plaintiff either identify the cause number of the case or file the Summons and Complaint. A review of the files of the Kittitas County Superior Court suggests the plaintiff has filed this action twice: once on June 3, 2003 under cause number 03-2-00330-4 and again on August 4, 2003 under cause number 03-2-00471-8. The City does not know under which, if either, cause number plaintiff purports to have served them. Plaintiff has made no response to counsel undersigned's letter of August 27th.

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2. This Notice is being filed within 30 days of initial receipt of plaintiff's Summons and Complaint.

3. This is a civil action alleging deprivation of plaintiff's constitutional rights under the color of state law. The Complaint does not contain a prayer for a specific dollar amount; however, on information and believe, based upon plaintiff's administrative claim, the removing defendants believe plaintiff claims at least $500,000.

4. 28 U.S.C. § 144(b) provides in part as follows:

> Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties.

5. Plaintiff alleges in his Complaint, "The actions of all Defendants described above were done under color of state law and violated state law and civil rights of the Plaintiff that were protected under federal law, as provided in 42 U.S.C. §1983." (Complaint, para. 13).. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1441. Removal is proper to the Eastern District of Washington at Spokane because the district and division embrace Kittitas County,

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which is where the defendants are located and where the events giving rise to this suit occurred.

6. True and correct copies of the Summons and Complaint received are attached hereto as Exhibit A and B, respectively. Exhibit C is true and correct copies of the Notice of Appearance for counsel for the Ellensburg defendants and the letter sending same to plaintiff.

WHEREFORE, defendants CITY OF ELLENSBURG, SCOTT WILLIS, NELSON NG and ANNE KIRKPATRICK give notice that the court action pending against them in Kittitas County Superior Court has been removed from that court to the United States Court for the Eastern District at Spokane.

DATED this 9th day of September, 2003.

JOHNSON CHRISTIE ANDREWS & SKINNER, P.S.

By ______________________________
SCOTT M. BARBARA, WSBA# 20885
Attorneys for Defendants City of Ellensburg, Scott Willis, Nelson Ng and Anne Kirkpatrick

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Consent to Removal

Defendants KITTITAS COUNTY, GENE DANA, TRACY WILSON, AARON LANGVIN, JEFF BEATON, JOHN KRAHENBUHL, ERIC NYLANDER, JEFF ST. JOHN and BETH SMITH hereby consent and join in the removal of the above-referenced matter from the Superior Court of the State of Washington in and for Kittitas County to the United States District Court for the Eastern District of Washington at Spokane.

SIGNED THIS 9 day of September, 2003.

KEEFE, KING & BOWMAN, P.S.

By ______________________________
CHRISTOPHER J. KERLEY, WSBA# 16489
Attorneys for Defendants Kittitas County, Gene Dana, Tracy Wilson, Aaron Langvin, Jeff Beaton, John Krahenbuhl, Eric Nylander, Jeff St. John and Beth Smith

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EXHIBIT A

entered against you without notice. A default judgment is one where the plaintiff is entitled to what they ask for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing this summons. Within 14 days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

Dated: June 3, 2003 Signed: Gene Camarata

GENE CAMARATA
Plaintiff

FILE THE ORIGINAL WITH
THE CLERK OF COURT AT:

Kittitas County Superior Court
205 West Fifth, Room 207
Ellensburg, Washington 98926
Tel: (509) 962-7531

SERVE A COPY OF YOUR ANSWER
ON PLAINTIFF AT:

Gene Camarata.
1001 E. 8th Avenue, #4
Ellensburg, WA 98926
(509) 982-6881

EXHIBIT B

RECEIV
AUG 1 1 2003
OFFICE OF CITY CL
ELLENSBURG, W

SUPERIOR COURT OF WASHINGTON FOR KITTITAS COUNTY

GENE CAMARATA, Plaintiff, v. CITY OF ELLENSBURG, SCOTT WILLIS, NELSON NG, ANNE KIRKPATRICK, KITTITAS COUNTY, GENE DANA, TRACY WILSON, AARON LANGVIN, JEFF BEATON, JOHN KRAHENBUHL, ERIC NYLANDER, JEFF ST. JOHN, BETH SMITH, Defendants.	NO. ______________ COMPLAINT FOR DAMAGES

Parties

1. Plaintiff Gene Camarata has resided in Kittitas County, Washington at all relevant times herein.

2. Defendants Scott Willis and Nelson Ng are Officers of the Ellensburg Police Department and residents of Kittitas County, Washington.

3. Defendant Anne Kirkpatrick was the Chief of the Ellensburg Police Department when the cause of action accrued.

4. Defendants Tracy Wilson, Aaron Langvin, Jeff Beaton, John Krahenbual, Eric Nylander, Jeff St. John and Beth Smith had been employed with the Kittitas County jail and residents of Kittitas County, Washington at all relevant times herein.

5. Defendant Gene Dana was Sheriff of Kittitas County and resident of Kittitas County, Washington at all relevant times herein.

6. Defendants City of Ellensburg and Kittitas County are municipal corporations chartered by the State of Washington.

Jurisdiction and Venue

7. This court has proper jurisdiction and venue, since this suit concerns acts of public officers and employees, of which were occurred in this county, and of whom are resident of this county, is against municipal corporations domiciled in this county, with Plaintiff being a resident of this county.

8. Plaintiff has complied with the provisions of Chapters 4.96 in addition to this complaint for federal claims, and will re-file complaint after 60 days for state tort claims.

Background Facts

9. Plaintiff's claim for damages arises out of actions taken by police officers of the City of Ellensburg on Kittitas County on June 3, 2000 and subsequent actions.

10. On June 3, 2000 Plaintiff called KITTCOM dispatch at least a couple of times with respect to the first Longhorn Saturday Nite Rodeo incidents at the Kittitas County Fairgrounds including the very loud intolerable PA system in the arena which was pointing at Plaintiffs home a couple of hundred feet away. The PA system could be heard over eight blocks away; even a city editor for the Ellensburg Daily Record newspaper, who lives a few blocks from the fairgrounds and has hearing deficiencies and wears two hearing aids, called KITTCOM because of the loudness of the fairgrounds PA system. Officers Scott Willis and Nelson Ng responded and harassed Plaintiff.

When Officer Willis first viewed and contacted Plaintiff, Plaintiff was at the far north side if 8th Avenue, a street adjacent to and running between fairgrounds and Plaintiff's home. At around 7:00 P.M., Officer Willis very tightly handcuffed, unlawfully arrested and searched Plaintiff and transported him to the Kittitas County Jail. At the jail when Plaintiff asked Willis about posting bail Willis indicated he wasn't getting out. Kittitas County Jail staff refused to let Plaintiff use the telephone, even after several requests by Plaintiff, until being allowed to post bail and be released which was after 1:00 A.M. June 4, 2003, and when the rodeo and associated beer garden event was over. Plaintiff made several requests to have pictures taken of handcuff mark bruises. During release Jail employee Eric Nylander indicated he would take pictures then changed his mind. Jail Employee Beth Smith (#37) was aggressive to Plaintiff and argued about what color of underwear he was wearing. Plaintiff went to Kittitas Valley Memorial Hospital to have handcuff bruises checked out and pictures were taken. At trail, a charge of disorderly conduct (ECC 7.04.12) was changed into four charges. The charge of an act alleged to be committed in the presence of Officers Willis and NG was dismissed.

Causes of Action

11. Officer Willis, while Office Ng was present, falsely arrested Plaintiff, and falsely imprisoned Plaintiff, without probable cause, required warrant in violation of RCW 10.31.100 and Article I Section 7 of the Washington State Constitution, or other legal authority, Plaintiff was unlawfully searched and trespassed upon the Plaintiff's person, maliciously instituted criminal

prosecution without probable cause against Plaintiff, negligent, excessive force, and assault and battery. Chief Kirkpatrick directly participated in the second case through his supervision, or lack thereof, and approval of these actions, and Kirkpatrick and the Ellensburg failed to train officers.

12. Various Kittitas County Jail staff continued with the false imprisonment of Plaintiff by not letting him post bail or use the telephone or allow medical treatment. Sheriff Dana directly participated in the second case through his supervision, or lack thereof, and approval of these actions, and Kirkpatrick and the Ellensburg failed to train officers.

13. The actions of all the Defendants described above were done under color of state law and violated state law and civil rights of Plaintiff that were protected under federal law, as provided in 42 U.S.C. § 1983. These federally protected civil rights included the Fourth Amendment to the U.S. Constitution, protecting against warrantless arrests and unreasonable searches and seizures, and also excessive force; conspiracy; and rights under First Amendment to the U.S. and State Constitutions; and the Fourteenth Amendment to the U.S. Constitution, which makes the Bill of Rights applicable to the States, and prevents State from depriving persons of life, liberty or property without due process of law, which protections include rights of an individual to be free from false arrest, false imprisonment, malicious prosecution. The actions of Officer Willis, Ng and Chief Kirkpatrick in wrongly arresting and imprisoning, and maliciously prosecuting Plaintiff were taken as a result of and in retaliation of Plaintiff exercising his rights of free speech and to petition for

redress of grievances, both in asserting his legal rights of complaining about fairgrounds problems (especially PA system), and in requesting government investigation of legitimate concerns of fairgrounds problems. Plaintiff was guaranteed these rights under First Amendment to the U.S. Constitution, giving additional basis for violating of civil rights under color of state law pursuant to 42 U.S.C. § 1983.

14. The actions of all the Defendants described above give rise to tort cause of action for violation of these same provisions of the U.S. Constitution, which could be brought even without the additional protections against such conduct furnished by 42 U.S.C. § 1983.

15. In addition to violating the described provisions of the U.S. Constitution, the actions of all the Defendants described above also give rise to tort cause of action for violation of the equivalent provisions of the Washington Constitution, which include Article I, Section 3 (no deprivation of life, liberty or property without due process of law); Article I, Section 4 (right to petition for the redress of grievances); Article I, Section 5 (freedom of speech); Article I, Section 7 (no unreasonable searches or seizures); Article I, Section 14 (right to bail); and Article I, Section 22 (right to be present and have counsel at all stages of a criminal prosecution).

Governmental Liability

16. Chapter 4.96 RCW makes Kittitas County and the City of Ellensburg liable as respondeat superior for the actions of their officers and employees.

17. The State of Washington, Kittitas County and the City of Ellensburg are also liable for the negligent supervision and training of their employees, which contributed to the above described torts.

18. Under 42 U.S.C. § 1983, the City of Ellensburg is liable for the actions of Chief Kirkpatrick, who was one of its policy-making officials, and for the actions of Officer Willis and Ng while being directly supervised and approved by Chief Kirkpatrick, and for falsely arresting, imprisoning and maliciously prosecuting Plaintiff, and using excessive force as a result of city policy matters.

19. Under Chapters 4.96 RCW, Kittitas County, and the City of Ellensburg assume liability for the actions of their officers and employees under respondeat superior.

Damages

20. As a result of these actions, Plaintiff has suffered injury to his standing in the community, injury to employment and business relations, injury to his ability to defend himself in criminal litigation, severe mental anguish and emotional distress, false imprisonment, loss of liberty, physical injury during the arrests, health care expenses, loss of time, energy, wages and money, involuntary observation, and related damages.

21. The violation of federally protected civil rights by the Defendants was also done intentionally, recklessly, or with gross negligence and maliciously in disregard of his rights, entitling Plaintiff to punitive and exemplary damages under 42 U.S.C. § 1983.

22. Plaintiff is entitled to reasonable attorney fees for civil rights violations pursuant to 42 U.S.C. §§ 1983 & 1988.

Prayer for Relief

Plaintiff prays for judgment against Defendants as follows:

(a) Actual damages, including general and special damages, in amount determined by trial or further proceedings in this matter.

(b) Punitive and exemplary damages pursuant to 42 USC 1983 in amount determined by trial or further proceedings in this matter.

(c) Reasonable attorney fees and costs of litigation pursuant to 42 U.S.C. § 1983 and 1988.

(d) All taxable and statutory costs of this proceeding.

(e) For all other general and equitable relief.

Respectfully submitted this 3th day of June, 2003.

GENE CAMARATA, PLAINTIFF
1001 E. 8th Avenue, #4
Ellensburg, WA 98926

EXHIBIT C

JCAS
Johnson Christie Andrews & Skinner, P.S.
Attorneys at Law

SCOTT M. BARBARA

August 27, 2003

Mr. Gene Camarata
1001 E. 8th Avenue, #4
Ellensburg, WA 98926

Re: *Camarata v. City of Ellensburg, Scott Willis, Nelson Ng, Anne Kirkpatrick, Kittitas County, Gene Dana, Tracy Wilson, Aaron Langvin, Jeff Beaton, John Krahenbuhl, Eric Nylander, Jeff St John and Beth Smith*

Dear Mr. Camarata:

Enclosed herewith please find our Notice of Appearance on behalf of the City of Ellensburg, Officers Willis and Ng, and former Chief of Police Kirkpatrick. The Summons and Complaint you served on the City did not indicate a cause number. If you have filed this action, please advise us of the cause number so that we may file it with the Court. If you have not yet filed this action, pursuant to CR 3(a) we hereby demand that you pay the filing fee and file the Summons and Complaint within 14 days.

We await your soonest response.

Very truly yours,

Scott M. Barbara

Enclosure

cc: Mr. Jim Pidduck
Mr. Randy Lumsden

200 West Thomas, Suite 500, Seattle, WA 98119
Phone: (206) 223-9248/ Fax: (206) 623-9050

FILE COPY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KITTITAS COUNTY

GENE CAMARATA, Plaintiff, v. CITY OF ELLENSBURG, SCOTT WILLIS, NELSON NG, ANNE KIRKPATRICK, KITTITAS COUNTY, GENE DANA, TRACY WILSON, AARON LANGVIN, JEFF BEATON, JOHN KRAHENBUHL, ERIC NYLANDER, JEFF ST. JOHN, BETH SMITH, Defendants.	NO. NOTICE OF APPEARANCE

TO: Plaintiff Above Named, *Pro Se*

YOU AND EACH OF YOU will please take NOTICE that the defendants, City of Ellensburg, Scott Willis, Nelson Ng and Anne Kirkpatrick, hereby appear in the above-entitled

JOHNSON CHRISTIE ANDREWS & SKINNER, P.S.
200 WEST THOMAS, SUITE 500, SEATTLE, WA 98119
PHONE: 206-223-9248/ FAX: 206-623-9050

ORIGINAL

action and requests that all further papers and pleadings, except original process, be served upon the undersigned attorneys at the address below stated.

DATED this 27th day of August, 2003.

JOHNSON CHRISTIE ANDREWS & SKINNER, P.S.

By ______________________________

SCOTT M. BARBARA, WSBA# 20885
Attorneys for Defendants City of Ellensburg, Willis, Ng and Kirkpatrick

JOHNSON CHRISTIE ANDREWS & SKINNER, P.S.
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SCOTT M. BARBARA, WSBA# 20885
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EASTERN DISTRICT OF WASHINGTON
SEP 10 2003
JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

GENE CAMARATA,

Plaintiff,

v.

CITY OF ELLENSBURG, SCOTT WILLIS, NELSON NG, ANNE KIRKPATRICK, KITTITAS COUNTY, GENE DANA, TRACY WILSON, AARON LANGVIN, JEFF BEATON, JOHN KRAHENBUHL, ERIC NYLANDER, JEFF ST. JOHN, BETH SMITH,

Defendants.

CY-03-3115-LRS
NO.

DECLARATION OF SERVICE

JOHNSON CHRISTIE ANDREWS & SKINNER, P.S.
200 WEST THOMAS, SUITE 500, SEATTLE, WA 98119
PHONE: 206-223-9248/ FAX: 206-623-9050

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I, MAUREEN E. PATTSNER, hereby declare:

1. That I am a citizen of the United States and of the State of Washington, living and residing in King County, in said State; that I am over the age of eighteen years, not a party to the above-entitled action, and competent to be a witness therein;

2. That on the 9th day of September, 2003, I caused a copy of NOTICE OF REMOVAL to be delivered via Federal Express to the following:

Gene A. Camarata
1001 East 8th Street, Apartment #4
Ellensburg, WA 98926
Plaintiff Pro Se

Christopher J. Kerley
KEEFE, KING & BOWMAN, P.S.
1102 Washington Mutual Financial Center
601 West Main Ave
Spokane, WA 99201-0625
Attorney for Kittitas County Defendants

I declare under penalty of perjury that the foregoing is true and correct.

DATED at Seattle, Washington this 9th day of September, 2003.

Maureen E. Pattsner

MAUREEN E. PATTSNER

JOHNSON CHRISTIE ANDREWS & SKINNER, P.S.
200 WEST THOMAS, SUITE 500, SEATTLE, WA 98119
PHONE: 206-223-9248/ FAX: 206-623-9050